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**FTAA - COMMITTEE OF GOVERNMENT REPRESENTATIVES ON THE PARTICIPATION
OF CIVIL SOCIETY**

COVER SHEET

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ISSUES ADDRESSED (Check all that apply)

Agriculture		Subsidies, Antidumping and Countervailing Duties	
Competition Policy		Civil Society	X
Dispute Settlement	X	Electronic Commerce	
Government Procurement		Smaller Economies	
Intellectual Property Rights		The FTAA Process	X
Investment	X	Other:	
Market Access			
Services			

EXECUTIVE SUMMARY – 2 pages maximum – (see Open Invitation):

The enclosed submission centers on two main areas of concern. First, the current level of public participation in the FTAA negotiations and the likely level of such participation in the final regime (including in dispute resolution) must improve dramatically in order to sustain public support for hemispheric economic integration. Only through dramatically improved public participation mechanisms will the FTAA be able to garner the public support it will need to enter into force and be successfully implemented. Second, the investment rules being contemplated in the FTAA must be significantly revised from those in the NAFTA in order to protect the ability of national governments to regulate to protect the environment and public health.

Public participation in the FTAA negotiations can be immediately improved by committing to publicly release drafts of the text as they are prepared. Individual countries should also release publicly the text of all negotiating proposals submitted in the course of negotiations. In addition, the FTAA negotiating parties should open the negotiating process to accredited NGO observers. Likewise, as the attached material suggest, there are a number of ways to incorporate improved public participation into the eventual operation of the FTAA regime. The focus of such efforts must be to improve access to information and decision-making and also provide avenues for the public to help ensure full implementation of the agreement. The attached materials suggest a number of mechanism currently used in international environmental regimes to foster greater public participation that may provide useful models for the FTAA.

The commitment to public participation must also be reflected in the FTAA's dispute resolution procedures. Consistent with their commitment to improve upon the WTO system, the negotiating parties should ensure not only that the FTAA's trade rules provide adequate protection for legitimate environmental and health policies, but also that members of the public affected and protected by those policies can participate fully in trade disputes that implicate them.

Investment rules being contemplated under the FTAA must take into account the problem being experienced with the NAFTA Chapter 11 rules. Cases brought under NAFTA illustrate that the scales have been tilted too far in favor of the rights of investors at the expense of the public's right to demand high levels of public health and environmental protection. At a minimum, the fair and equitable treatment and expropriation provisions of NAFTA (Arts. 1105 and 1110) must be constrained to ensure that they do not interfere with the ability of governments on all levels to regulate in the public interest. Perhaps the most problematic provision of the investment rules is the investor-to-state dispute mechanism. The FTAA should not contain any such mechanism, unless the substantive rules are constrained and new, more open and legitimate venues are created for hearing such disputes.

Finally, the investment rules in the FTAA must contain environmentally positive provisions, including, but not limited to, binding requirements to: prevent waiving or relaxing health and environmental regulations, require environmental assessments of major projects, and require minimum standards of corporate accountability.

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